IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.15008 OF 2001
AND
W.P.M.P.NO.2599 OF 2007

P.Ponnuswami .. Petitioner

Vs.

1.The District Educational Officer,
Tuticorin.

2.The Director of School Education,
Chennai-6.

3.The Secretary to Government,
School Education,
Fort St. George,
Chennai-9.

4.The Director of Pensions,
250, Block-III, II Floor,
D.M.S. Complex,
Teynampet,
Chennai-6. .. Respondents

This writ petition has been preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records of the third respondent in No.42290/T2/98-12, dated 8.5.2001 and communicated by the 4th respondent in No.20025/2001/C1, dated 28.5.2001 and to quash the same and to direct the respondents to pay the pension with effect from 1.9.1966.

WEB COPY

For Petitioner : Mr.A.M.Packianathan Easter

For Respondents: Mrs.Sanmugavalli Sekar for RR1 to 3

ORDER

This writ petition has been filed, challenging an order of the third respondent, dated 8.5.2001 and communicated by the 4th respondent in No.20025/2001/C1, dated 28.5.2001 and also to issue a direction to the respondents to pay pension with effect from 1.9.1966 to the petitioner.

https://hcservices.ecourts.gov.in/hcservices/

2.The affidavit filed in support of the petition is perused. The court heard the learned counsel on either side.

3.Admittedly, the petitioner joined service as Hindi Pandit in C.M.S. Middle School, Pannaivillai on 1.6.1951 and he was working till 31.5.1954 when he resigned from the post. Thereafter, he joined in Pope Memorial High School, Sawyerpuram, Tuticorin District on 1.6.1954 and worked till 31.8.1966. Thus, he got a total service of 15 years without any break. On 31.8.1966, he resigned from the post. The Government Order came to be passed in G.O.Ms.No.1109, Education, dated 31.5.1958, whereby a pension scheme was introduced to teaching staff working in aided schools and local body schools with effect from 1.4.1955, wherein it was stated that a teacher shall be eligible for pension if he rendered a total qualifying service of 10 years, but the G.O. did not speak about the resigned teachers. Subsequently, a G.O. came to be passed in G.O.Ms.No.1196 Education, dated 15.7.1975, sanctioning minimum pension to those who resigned from service or left from service or got discharged. But, by G.O.Ms.No.1015, Education, dated 11.6.1981, crucial date was fixed as 31.5.1958 to those who resigned from service. Thus, when the petitioner applied for minimum pension as per G.O. of the year 1975, referred to above, the third respondent rejected the same and the same was communicated by the 4th respondent. The order of the respondents would go to show that the crucial date for getting minimum pension by the resigned teacher was on 31.5.1958, but the petitioner was working even subsequently. Under these circumstances, he is not entitled for pension, which is the subject matter of challenge in this writ petition.

4.The learned counsel for the petitioner brought to the notice of the court that it is true, the G.O. of the year 1975 did not fix any crucial date and thus, in view of the G.O., the petitioner was entitled to have minimum pension, since he resigned from the post. But, the crucial date came to be fixed by the subsequent G.O, which was passed in the year 1981 and that the crucial date was fixed as 31.5.1958 without any reason and hence, it has got to be set aside. Added further the learned counsel that equally placed four teachers, who have resigned from the post, have got pension by way of four independent G.Os. passed by the State, whereby they were given minimum pension and hence, following the same, the petitioner's case also has got to be considered by the State.

5.The court heard the learned counsel for the respondents on the above contentions.

6.After considering the submissions made, the court is of the considered opinion that it is a fit case where a direction could be issued to the respondents to consider the case of the petitioner sympathetically, though not as of right. In the instant case, admittedly, the petitioner had 15 years of service till he resigned the post on 31.8.1966. Now, pursuant to the G.O. passed in the year 1975, referred to above, he was entitled to have minimum pension, but he did not avail the same. Subsequently, another G.O. came to be passed in the year 1981, fixing the crucial date as 31.5.1958.

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

If it has got to be applied, the petitioner should have resigned on or before 31.5.1958, but he has worked till 1966. In view of the G.O., he is not entitled to have the benefit of having minimum pension. Thus, the order passed by the respondents cannot be found to be infirm or illegal, but was correct. But, at the same time, it was brought to the notice of the court that four teachers, who have actually served till 1989 had applied for minimum pension and taking into consideration the period of service, an independent G.O. came to be passed and the particulars of which were also enumerated in the petition and hence, the case of the petitioner can also be equally considered.

7.Since the petitioner had worked more than 15 years without break, the court is of the considered opinion that he can also be given the benefit, which was given to four other teachers, who were equally placed like the petitioner and their details are mentioned in the petition. Under these circumstances, it would be fit and proper to issue a direction to the respondents to consider the case of the petitioner sympathetically as one done in the other four cases and pass suitable orders as early as possible preferably within a period of 12 weeks herefrom, since the matter is pending for a long time. Accordingly, directions are issued and the writ petition is ordered. No costs. Consequently, the connected WPMP is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vvk

To

1.The District Educational Officer,
Tuticorin.

2.The Director of School Education,
Chennai-6.

3.The Secretary to Government,
School Education,
Fort St. George,
Chennai-9.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4.The Director of Pensions,
  250, Block-III, II Floor,
  D.M.S. Complex,
  Teynampet
  Chennai-6.

1 cc to Mr.A.M. Packianathan Easter, Advocate, SR. 71158
1 cc to Government Pleader, Sr. 71301

W.P.NO.15008 OF 2001

RSN (CO)
kk 14/12

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
WEB COPY

https://hcservices.ecourts.gov.in/hcservices/